

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT
FOR THE Western DISTRICT OF TEXAS
San Antonio DIVISION

FILED

FEB 15 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY

FRANCISCO ESQUIVEL III #632952

Plaintiff's Name and ID Number

COMAL COUNTY JAIL 8000 IH 35 S. NEW BRAUNFELS, TX
Place of Confinement 78130

CASE NO. 5:22-cv-001386-XR
(Clerk will assign the number)

v.

OFC MORA #3409 COMAL COUNTY JAIL
Defendant's Name and Address 8000 IH 35 S.
NEW BRAUNFELS, TX 78130

Defendant's Name and Address

Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

FILING FEE AND *IN FORMA PAUPERIS* (IFP)

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of **\$400.00**.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

CHANGE OF ADDRESS

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "**NOTICE TO THE COURT OF CHANGE OF ADDRESS**" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ___ YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)
 1. Approximate date of filing lawsuit: 12-20-2022
 2. Parties to previous lawsuit:

Plaintiff(s) _____

Defendant(s) _____
 3. Court: (If federal, name the district; if state, name the county.) _____
 4. Cause number: _____
 5. Name of judge to whom case was assigned: _____
 6. Disposition: (Was the case dismissed, appealed, still pending?) _____
 7. Approximate date of disposition: _____

II. PLACE OF PRESENT CONFINEMENT: COMAL COUNTY JAIL 3000 IH 35 S. NEW BRAUNFELS, TX 78130

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure? ☒ YES ☐ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: FRANCISCO ESQUIVEL #632952; COMAL COUNTY JAIL
3000 IH 35 S. NEW BRAUNFELS, TX 78130

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: OFC MORA #3409, COMAL COUNTY JAIL, 3000 IH 35 S. NEW BRAUNFELS,
TX 78130

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

SLAMMED ME HEAD FIRST IN HANDCUFFS INTO CENTRAL BLOCK WALL

Defendant #2: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #3: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

COMAL COUNTY SHERIFF'S OFFICE

INMATE GRIEVANCE

COPY

COMPLETED BY: SGT EBERT #3347

INMATE: ESQUIVEL, FRANCISCO

SPN# 632952

CELL# B1-2

DATE: 7-20-2021

GRIEVANCE # 594

Your grievance has been received and reviewed. After further investigation, your grievance was founded in the allegations you reported in respect to having been subject to a prohibited act by a staff member. A review of this incident shows that you were being escorted to an alternative housing area following your removal from cell D5. This movement occurred because of your displeasure with a sheet that was exchanged and your subsequent refusal to keep the sheet, kicking it back at the feet of the officer. You were then brought out of the cell to further discuss the matter at hand.

During this incident you were handcuffed for the safety of all involved as you were observed to be passively resistant and agitated by the officer's directives. The determination was then made to relocate you. While entering the D-Separation cell hallway you were observed turning towards the officer while being escorted. It was at this time, while you were still handcuffed, that Ofc Mora #3409 utilized defensive tactics that resulted in your head coming into contact with the wall.

It was determined through administrative investigation that this action was not in accordance with proper procedure for this incident. As a result, corrective action was taken to handle this matter accordingly and to help prevent future instances from occurring.

As far as your allegation of being subject to a criminal act, the administrative investigation did not result in the determination that Ofc Mora intended to recklessly or intentionally cause harm to you. Ofc Mora exercised a poor judgement of his use of a defensive tactics that unintentionally caused the injuries that you reported.

When mentioning previous instances of harassment, remember that the grievance process can only account for incidents that occur no more than seven days prior to the request of the grievance.

This grievance has now been addressed.

Col. D. J. Ebert #3347
Grievance Board Member

7-20-21
DATE

Det. 3311 S. Mora
Grievance Board Member

7-20-2021
DATE

Sgt. G. C. #3347 Sgt. R. L. #3347
Grievance Board Member

7-20-2021
DATE

Inmate Receiving

DATE

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

ON 6-6-21, DORM D5, I WAS WASHING MY SHEET AND HUNG IT UP ON THE RAIL TO DRY EVERY WEEKEND. AFTER A FEW CHECKS LATER O.C. MORA #3409 TOOK IT OFF THE RAILING AND ASK WHO'S SHEET. IT WAS I STATED IT WAS MINE. I ALSO SAID ILL HAVE IT ON MY CELL TO DRY BUT O.C. MORA #3409 SAID HE WOULD REPLACE THE SHEET WITH A NEW ONE SO I REPLIED OK. LATER HE O.C. MORA #3409 CAME BACK WITH A TORN, STAINED AND STUNK HORRIBLY. I TOLD O.C. MORA #3409 I WOULD OF JUST KEPT MINE INSTEAD. I PLACED THE ITEMS OUTSIDE THE DOOR BY HIS FEET. HE CONTINUE TO PULL THE SHEET ON ME AS I REFUSED TO TAKE A SHEET THATS TORN STAINED AND STUNK ASKED TO GO OUTSIDE TO THE G SPACE. O.C. MORA #3409 HAD ME AGAINST THE BARS WHILE I WAS NOT REFUSED BUT ASKING FOR RANK WHICH I WAS REJECTED OF.

VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

A REASONABLE JUDGEMENT GRANTING REIMBURSEMENT FOR MEDICAL COSTS, PAIN AND SUFFERING ~~AND MISTREATMENT~~ AND MISTREATMENT

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

FRANCISCO ESQUIVEL III

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

①01560746? ②01848450 ③02387674

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): _____

2. Case number: _____

3. Approximate date sanctions were imposed: _____

4. Have the sanctions been lifted or otherwise satisfied? YES ☒ NO

UNITED STATES DISTRICT COURT

262 W. NIEVA STREET

SAN ANTONIO, TX 78207

FRANCISCO ESQUIVEL III, #632952

PLAINTIFF,

V.

UNKNOWN MEDICAL ADMINISTRATION

AND ADMINISTRATION OF COMAL

COUNTY SHERIFF MARK REYNOLDS

DEFENDANTS

SA:22-cv-001386-XR

ATTACH V. STATEMENT OF CLAIM:

THEN O.C. MORA #3409 TOOK SHIRT OFF MY HEAD WHICH I USE AS A TURBAN FOR MY RELIGIOUS
 DESENT AS A MUSLIM THEN DID ~~THREW~~ ^{THREW} IT ON THE FLOOR. THEN O.C. MORA #3409 HANDCUFFED
 ME ~~HOLD~~ THE REC YARD AND CONTINUED TO REFUSE ME RANK AS THE REC YARD WAS
 FLOODED WITH WATER. O.C. MORA #3409 WAS TAKING ME TO SEPERATION. AS O.C. MORA #3409
 WAS TAKING ME O.C. MORA #3409 KEPT LAISING THE HANDCUFFS HURTING MY SHOULDER.
 I KEPT TELLING HIM YOU HURTING ME IM NOT REFUSING AND NEXT THING I KNOW
 I WAS SWINGING AROUND SO FAST AND ALL I FELT WAS THE IMPACT OF THE BLOW
 ON THE TOP OFF MY HEAD AND WENT STRAIGHT DOWN. THIS ALL HAPPEN IN
 B SHIFT WHICH ALSO DENIED ME TO TAKE PHOTOS. I SHOWED SEVERAL O.C.
 IN COMAL COUNTY INCLUDING A NURSE WHO CANT FULLY REMEMBER HER NAME.

① \$0,00,00 GROSS NEGLIGENCE TORT

② \$00,000,00 42 U.S.C. 1983 TORT

③ \$5,00,00 DELIBERATE INSUFFERLANCE

Francisco Esquivel III

FRANCISCO ESQUIVEL III

- C. Has any court ever warned or notified you that sanctions could be imposed? _____ YES ☒ NO
- D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)
1. Court that issued warning (if federal, give the district and division): _____
 2. Case number: _____
 3. Approximate date warning was issued: _____

Executed on: _____
DATE

(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 2 day of FEBRUARY, 20 23.
(Day) (month) (year)

FRANCISCO ESQUIVEL III

Francisco Esquivel III
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

COMAL COUNTY JAIL - REQUEST/GRIEVANCE
(ONLY ONE REQUEST PER FORM)

NAME: Francis Escobedo
PURPOSE OF FORM: (CHECK ONLY ONE)

SPN #: 130952

CELL: 14

1. REQUEST

2. GRIEVANCE

3. MEDICAL

4. OTHER

REASON FOR REQUEST/GRIEVANCE/MEDICAL/OTHER (BE SPECIFIC UNLESS MEDICALLY CONFIDENTIAL) NO PROSECUTION

I GOT SOME PAPERS FROM THE CLERK. I ASKED HIM TO GET A COPY OF THE PAPERS SENT TO ME. HE SAID HE COULD GET THEM FOR ME. I CAN SEND HIM THE PAPERS AND HE CAN GET THEM FOR ME. I CAN SEND HIM THE PAPERS AND HE CAN GET THEM FOR ME. I CAN SEND HIM THE PAPERS AND HE CAN GET THEM FOR ME.

INMATE SIGNATURE

DATE/TIME

JAILER SIGNATURE & BADGE #

DATE/TIME

RESPONSE:

Unable to complete request

INMATE SIGNATURE

DATE/TIME

JAILER SIGNATURE & BADGE #

DATE/TIME

White-Inmate file when completed

Yellow-Response to Inmate request

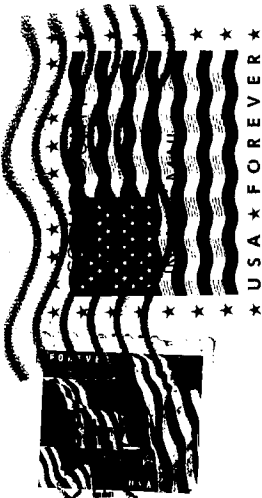
Pink-Original Inmate copy

Francisco Esquivel 632952
3000 IH 35 S
NEW BRUNSWICK, TX 78130
2/6/2023

BY-6

COMAL COUNTY JAIL
INMATE MAIL

SAN ANTONIO TX
RIO GRANDE DISTRICT
13 FEB 2023 PM



CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
262 WEST NUEVA STREET
SAN ANTONIO, TX 78207 BY CSO
FEB 14 2023

RECEIVED

FEB 15 2023

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY

LEGAL MAIL

76207-452999

